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 Department of Public Health
 Bureau of Health Professions Licensure
 Board of Registration in Dentistry
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COMMONWEALTH OF MASSACHUSETTS

**NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
 BOARD OF REGISTRATION IN DENTISTRY**

May 3, 2017
 239 Causeway Street ~ Room 417 A&B
 Boston, Massachusetts 02114

AGENDA

Time	#	Item	Exhibits	Contact
8:30 a.m.	I	CALL TO ORDER, DETERMINATION OF QUORUM, AND APPROVAL OF AGENDA		
8:32	II	REGULATORY REVIEW: 234 CMR 6.00, ADMINISTRATION OF ANESTHESIA AND SEDATION Dr. Thomas Trowbridge and Dr. Morton Rosenberg (Regulatory Review Workgroup Members), Presenters	Draft Regulations	S. Leadholm
10:30	III	COMPLAINT RESOLUTION 1. DEN-2016-0075: Lorraine Petrowski, RDA 2. DEN-2016-0076: Deborah Kouri, RDH	Investigation Reports	S. Millar E. Mulligan
10:45	IV	ADMINISTRATIVE MATTERS 1. Review of Minutes of General Session of April 5, 2017 2. Review of Minutes and Adoption of Recommendations of Complaint Committee General Session of April 5, 2017 3. Petition for Reinstatement of Licensure: Dr. George Hatzigiannis 4. Probation Monitor Monthly Report 5. Probation Update DEN-2012-0027: Dr. Brian Mangano 6. Proposed Advisory Ruling on 234 CMR 8.00, Continuing Education	Draft Minutes, Petition, Report, Memos	B. Young, S. Leadholm, K. Fishman
11:30	V	FLEX SESSION		
11:35	VI	ADJUDICATORY SESSION (closed to the public)		
12:30		LUNCH		

1:30	VII	M.G.L. c. 112, §65C SESSION (closed to the public) [Agenda continued overleaf.]		
2:00	VIII	EXECUTIVE SESSION (closed to the public) The Board will meet in Executive Session as authorized pursuant to M.G.L. c. 30A, § 21(a)(1) for the purposes of discussing the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against an individual. Specifically, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients. Specifically, the Board will discuss and evaluate the Good Moral Character of applicants for licensure.		
4:00		ADJOURNMENT		

MASSACHUSETTS BOARD OF REGISTRATION IN DENTISTRY
239 Causeway Street, Boston, MA 02114
Room 417
GENERAL SESSION MINUTES
May 3, 2017

Present: Dr. Stephen DuLong, Board Chair; Ms. Jacyn Stultz, RDH; Dr. Paul Levy; Ms. Lois Sobel, RDH; Ms. Kathleen Held; Dr. Patricia Wu; Dr. Keith Batchelder; Dr. Ward Cromer

Absent: Ms. Ailish Wilkie, Board Secretary; Dr. Cynthia Stevens; Dr. John Hsu

Board Staff Present: Barbara A. Young, Executive Director; Jeffrey Mills, Asst. Executive Director; Samuel Leadholm, Esq., Board Counsel; Dr. Liliana DiFabio, Supervisor of Investigations; OPP Investigators Sarah Millar, Eileen Mulligan, Kathleen O'Connell, Lisa Seeley-Murphy, Danielle Taylor and Barbara Yates.

Motion: **At 8:32 a.m., to commence the meeting and to adopt the proposed agenda for today's meeting**

Motion Made By: Ms. Lois Sobel

Second: Ms. Kathleen Held

Vote: Unanimous

I. Administrative Matters:

A. Regulatory Review: 234 CMR 6.00 – Administration of Anesthesia and Sedation

Dr. DuLong introduced Dr. Morton Rosenberg and Dr. Thomas Trowbridge to the Board as members of the Board's Regulatory Review Workgroup and noted the workgroup has been meeting for nearly two years to review 234 CMR 6.00 line-by-line, section-by-section. Dr. Trowbridge noted the workgroup has worked diligently to incorporate recent changes in the administration of anesthesia and sedation as adopted by the ADA. Dr. Trowbridge explained the workgroup's focus in three high level areas: 1) adopting the ADA guidelines for the teaching of anesthesia and sedation as well as the administration of anesthesia and sedation, 2) simplifying the regulations regarding the appropriate uses of anesthesia and sedation, required equipment and medications, and 3) redefining the levels of permits required from the previously used methods of administration to the current continuum of anesthesia achieved.

Dr. Trowbridge noted the workgroup's proposed amendments to 6.00 now bring the Board's regulations in line with the current accepted practices. Dr. Rosenberg noted he co-authored the Board's first version of its anesthesia and sedation regulations in 1997 with Dr. Walter Guralnik and agreed with Dr. Trowbridge with regards to the proposed revisions being in compliance with the current standards. Dr. Rosenberg did not that there remains some controversy within the ADA esp. regarding the use of capnography. Dr. Rosenberg explained the American Academy of Pediatric Dentistry does not require the use of capnography while the ADA does; Dr. Rosenberg stated the workgroup's proposed revisions do require the use of capnography on all patients.

Dr. Batchelder asked about the licensee who retains the services of a traveling anesthesiologist as to who is responsible for providing the required equipment; Dr. Rosenberg replied the anesthesiologist is required to do so. Dr. DuLong asked if the proposed revisions to 6.00 require the traveling anesthesiologist to ensure all practice locations are compliant with infection control protocols; Ms. Young replied infection control requirements is not part of 6.00. Dr. Trowbridge noted traveling anesthesiologists typically use disposables. Dr. Batchelder asked if the proposed revisions define disposables; Atty. Leadholm replied it does not.

Ms. Sobel asked if hygienists who hold local anesthesia permits will be required to complete CEUs in local anesthesia as will be required of dentists who hold individual anesthesia/sedation permits (see 234 CMR 6.19). Atty. Leadholm replied yes if the Board decides to include hygienists in this proposed revision. Ms. Young asked if refresher or update courses in local anesthesia are offered at the YDC each year; Ms. Stultz replied they are.

Motion: **To exclude dental hygienists from the proposed CEU requirement of 234 CMR 6.19**

Motion Made By: Dr. Keith Batchelder

Second: Ms. Jacyn Stultz

Vote: Unanimous (Ms. Lois Sobel abstained)

Dr. Trowbridge explained the workgroup has proposed removing the category of minimal sedation entirely from 234 CMR 6.00. Dr. Batchelder asked about the proposed costs to dentists if the proposed revisions to 6.00 are adopted by the Board. Ms. Stultz asked what happens if a dentist, who currently holds a minimal sedation permit, prescribes a sedative preoperatively to a patient would that remain minimal sedation; Dr. Rosenberg replied it would not. Dr. Batchelder noted dentists who currently hold minimal sedation permits that will be redefined as moderate sedation if the proposed revisions are adopted will likely complain to the change esp. if that dentist administered minimal sedation for years without incident. Ms. Held asked about pediatric patients with medical issues who are on medication, would those patients be considered moderate sedation; Dr. Trowbridge replied it depends noting the regulations do talk about risk categories.

Mr. Mills asked what should happen when a dentist, currently permitted at a higher level of anesthesia/sedation, seeks to "step down." Dr. Batchelder replied the dentist should inform the Board, in writing, of the proposed changes. Atty. Leadholm asked if a re-inspection would be required. Dr. DiFabio replied that would depend upon the results of the initial inspection of the dentist's office.

Atty. Leadholm asked about the licensure requirement that an applicant for an anesthesia/sedation permit must provide proof of acceptable training within two years of the submission of an application. Atty. Leadholm noted dentists from other jurisdictions who have administered anesthesia/sedation without issue would be prohibited from acquiring a permit here without retaking an approved anesthesia/sedation course. Atty. Leadholm suggested this could be a problem for the community health centers and foreign trained dentists. Dr. Batchelder suggested adding a permit by credential to the list of Board permit applications. Dr. DuLong asked about the qualifications of anesthesia/sedation educators; Dr. Rosenberg replied the ADA guidelines for teaching anesthesia/sedation have been incorporated into the proposed revisions to 6.00.

Motion: To accept the proposed revisions to 234 CMR 6.00, as amended (inclusion of a permit by credential and inclusion of a provision dentists must notify the Board of any change in the level of anesthesia/sedation administered by the licensee)

Motion Made By: Ms. Lois Sobel

Second: Dr. Keith Batchelder

Vote: Unanimous

B. Review of the General Session Minutes of April 5, 2017

Motion: To approve the General Session Minutes of the April 5, 2017, Board meeting

Motion Made By: Ms. Kathleen Held

Second: Dr. Keith Batchelder

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Patricia Wu; Dr. Paul Levy;
Dr. Keith Batchelder; Ms. Lois Sobel; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Ward Cromer; Ms. Jacyn Stultz

C. Review of the Complaint Committee General Session Minutes of April 5, 2017

Motion: To approve the General Session Minutes of the April 5, 2017, Complaint Committee meeting

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: **In Favor:** Dr. Keith Batchelder; Dr. Stephen DuLong;
Dr. Paul Levy
Opposed: None
Abstain: None

Motion: To Adopt the Recommendations of the April 5, 2017, Complaint Committee

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Patricia Wu; Dr. Paul Levy;
Dr. Keith Batchelder; Ms. Lois Sobel; Ms. Kathleen Held
Opposed: None
Abstain: Dr. Ward Cromer; Ms. Jacyn Stultz

D. Petition for Reinstatement of Licensure – in the matter of Dr. George Hatzigiannis, Docket No. DEN-2011-0047

The licensee and Ruth Greenberg, Esq. were present for the discussion and vote of the Board on this matter. The licensee answered all questions as appropriate.

Discussion: Atty. Leadholm explained the licensee's conviction was overturned on appeal and the licensee agreed to a CWO resolution of the pending sexual assault charges with the district attorney's office. Atty. Leadholm advised the Board the licensee's probationary period with the court has ended without any violations of probation.

The licensee noted he has not practiced dentistry for approx. 4 ½ yrs. and would like to return to active practice. Dr. Batchelder asked if the licensee is compliant with CEUs; Mr. Mills replied he is.

Atty. Leadholm noted the licensee settled a civil suit with the alleged victim for \$10,000 without any admission of guilt by the licensee.

Motion: **To reinstate the licensee's license to practice dentistry**

Motion Made By: Dr. Keith Batchelder

Second: Dr. Paul Levy

Discussion (cont'd): Atty. Leadholm asked the licensee if he has maintained his credentials with the AAOMS; the licensee replied he has not due to financial constraints but he has kept up with his CEUs. Ms. Young asked the licensee if his intent was to return to his own private practice or to work as an associate; the licensee replied he initially will be working as an associate as three dentists have expressed interest in hiring him.

Ms. Stultz asked if the licensee was found not guilty; Atty. Greenberg replied the appellate court found the trial unfair and set aside the jury's verdict. Dr. DuLong asked if the licensee had been incarcerated; Atty. Greenberg replied he was noting he was paroled as soon as he was eligible for parole. The licensee replied he was incarcerated for 6 mos. and 1 day.

Dr. Batchelder asked the licensee what he would do differently now; the licensee replied hire extra staff and install a video monitoring system in his office. Atty. Greenberg noted the alleged victim never reported any problems to the Board or the police indicating this was a terrible mistake and the licensee has never admitted any wrongdoing.

Vote: **In Favor:** Dr. Stephen DuLong; Dr. Patricia Wu; Dr. Paul Levy; Dr. Keith Batchelder; Ms. Lois Sobel; Ms. Jacyn Stultz; Dr. Ward Cromer

Opposed: None

Abstain: Ms. Kathleen Held

E. Probation Monthly Report for Period of 3.29.17 to 4.21.17

Mr. Mills submitted Ms. Fishman's monthly probation report to the Board. The Board had no questions for Mr. Mills or Ms. Fishman.

F. Proposed Advisory Ruling on 234 CMR 8.00: Continuing Education

Dr. DuLong noted the CDCA has begun awarding 8 CEUs to dentists who volunteer to act as clinical competency exam monitors each time a dentist participates in a CDCA scheduled exam. Dr. DuLong suggested the Board adopt an advisory ruling that would allow dentists to include these CEUs in their biennial requirements but recommended setting a limit on the no. of CEUs to be credited. Dr. DuLong expressed concern that a dentist could theoretically participate in 5 exams each year and acquire 40 CEUs without ever taking any courses. Dr. DuLong noted the NH dental board is also considering awarding credits but setting a limit on the no. of CEUs to be credited each cycle.

Ms. Stultz agreed with accepting these CEUs and suggested setting a limit of 8 CEUs per licensure cycle as long as hygienists are afforded the opportunity to earn 8 CEUs as well. Dr. Batchelder asked how many CEUs can be earned by dental educators; Dr. DuLong replied up to 10 CEUs can be earned by faculty of a CODA-accredited program per licensure cycle.

Motion: To adopt an advisory ruling that indicates dentists and hygienists may earn up to 8 CEUs once per licensure cycle for participation in any clinical licensure exam as an exam monitor

Motion Made By: Ms. Jacyn Stultz

Second: Dr. Paul Levy

Vote: Unanimous

Discussion: Dr. Trowbridge noted CEUs could be awarded for participating in a specialty exam

Motion: To amend the advisory ruling to include specialty exams

Motion Made By: Dr. Keith Batchelder

Second: Ms. Jacyn Stultz

Vote: Unanimous

G. Probation Update – Probation Monitor Karen Fishman

--In the Matter of DEN-2012-0027: Dr. Brian Mangano

The licensee was not present for the discussion and vote of the Board on this matter.

Ms. Fishman advised the Board the licensee entered into a Consent Agreement for Suspension followed by 2 Years' Probation in March 2016 and one of the conditions of the Agreement was the licensee was required to retain a practice monitor to review the licensee's practice with respect to diagnosis and treatment planning, periodontal assessment and treatment, infection control, etc. Ms. Fishman noted the Board approved Dr. David Russell as the licensee's practice monitor noting Dr. Russell is required to submit quarterly reports on the licensee's progress to the Board. Ms. Fishman provided two reports, dated 12/23/16 and 3/30/17, from Dr. Russell regarding the licensee's progress.

Dr. Cromer noted these reports are exactly what the Board hoped to see noting the licensee's practice has improved. Ms. Fishman suggested the Board eliminate the requirement Dr. Russell provide reports in the second year of the licensee's probationary period if the licensee continues to do as well as Dr. Russell reports but the Board took no action on this suggestion. Ms. Young asked when the next report from Dr. Russell is due; Ms. Fishman replied in August.

The Board took its morning recess at 10:10 a.m. and resumed its meeting at 10:22 a.m.

Complaint Resolution – Investigator Sarah Millar

--In the Matter of DEN-2016-0075: Lorraine E. Petrowski, RDA

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation(s): Unlicensed Practice by a Dental Assistant

Discussion: Mr. Mills noted the Board previously decided not to pursue the unlicensed practice of dental assisting by dental assistants until after the first full licensure cycle ends on 10/31/17. However Ms. Young noted that is not the case with this licensee as evidenced by the fact the licensee acquired a dental assistant license and then continued to practice for over a year after her licensed expired on 10/31/15.

Ms. Stultz suggested it is possible the licensee didn't realize her license expired on 10/31/15 and suggested a dismissal with an advisory letter would be appropriate; Drs. Batchelder and Levy agreed.

Motion: To dismiss the complaint with an advisory letter on the regulations pertaining to licensure.

Motion Made By: Ms. Jacyn Stultz

Second: Dr. Keith Batchelder

Vote: Unanimous

Motion: To send an advisory letter on the regulations pertaining to dental assistant licensure to this licensee's dental employer

Motion Made By: Dr. Keith Batchelder

Second: Ms. Kathleen Held

Vote: Unanimous

Complaint Resolution – Investigator Eileen Mulligan

--In the Matter of DEN-2016-0076: Deborah M. Kouri, RDH

The licensee was not present for the discussion and vote of the Board on this matter.

Allegation(s): Unlicensed Practice by a Dental Hygienist

Discussion: Ms. Mulligan informed the Board the licensee practiced on an expired hygiene license from 4/1/15 to 5/17/16 and was not compliant with the required CEUs. However Ms. Mulligan noted the licensee did more than the required CEUs, including completing an infection control course twice, during the next licensure cycle.

Motion: To offer a Consent Agreement for a Reprimand

If this agreement is not accepted by the licensee, the matter will be referred to prosecution.

Motion Made By: Ms. Jacyn Stultz

Second: Dr. Keith Batchelder

Vote: Unanimous

H. Flex Session

1. Ms. Young informed the Board she has requested a meeting with BHPL IT staff to discuss a possible method for dentists to upload their safe and effective opioid prescribing/pain

mgmt. course certificates as part of the online licensure renewal process in early 2018 as the recent changes to MGL c. 94C, s. 18(e) require all dentists to provide this proof before renewing their licenses.

2. Dr. DuLong updated the Board on his recent attendance at the AADB and JCNDE meetings in Chicago. Dr. DuLong noted the JCNDE meeting was rather contentious as the chairman of the CDCA was present and was quite vocal in his objections to the ADA's recent decision to draft its own version of an OSCE exam. Dr. DuLong noted several board chairs were also angry at the ADA for pursuing this project noting the ADA's purpose is to serve its members and not to get involved in the licensure examination process. Atty. Leadholm noted he is working with a Canadian dentist who is seeking licensure here but has only completed the Canadian OSCE and is licensed in California by virtue of a portfolio. Atty. Leadholm advised the Board this licensure candidate has never taken a clinical competency exam but the Board's governing statutes may provide for licensure of this dentist.

3. Dr. DuLong noted Ms. Young has raised a licensure issue that has caused concern among current BUSDM students and the administration. Ms. Young explained it has been the practice of Board staff to grant licenses to graduates of BUSDM's advanced standing program before those students actually graduate. Dr. DuLong explained these students don't complete their program until July, well past BU's May graduation cycle, but it is the policy of BU to only issue diplomas after their May, September or January graduations. Ms. Young agreed noting these students submit their applications in July/August but their diplomas say they are not graduating until Sept. Dr. Batchelder asked if this is a regulatory or statutory requirement. Atty. Leadholm advised the Board there might be a problem if a license is issued before the actual graduation date and then BU decides to withdraw its approval to graduate. Atty. Leadholm noted the governing statute reads "sufficient proof the....has received a diploma..." but noted the statute was last amended in 1932.

Dr. Batchelder noted the Board cannot simply stop doing what's been done before and suggested continuing granting licenses to those graduates who have met BUSDM's graduation requirements. Dr. DuLong noted this decision will greatly impact many current BUSDM students. Dr. Cromer suggested adding this issue to the agenda for the Board's June meeting.

4. Dr. DuLong noted all BUSDM students and faculty must take an infection control/safety course each year but a question has come up if that course is acceptable to the Board as proof of training on the CDC guidelines. Ms. Young said it's likely the course is acceptable but the course certificate issued by the BUSDM should reference the CDC guidelines to clear up any questions Board staff might have.

Motion: At 11:05 a.m., to enter an Adjudicatory Session

Motion Made By: Ms. Lois Sobel

Second: Dr. Paul Levy

Roll-Call Vote: **In Favor:** Dr. Stephen DuLong; Dr. Patricia Wu; Dr. Paul Levy;
Dr. Keith Batchelder; Ms. Lois Sobel; Ms. Jacyn Stultz;
Dr. Ward Cromer; Ms. Kathleen Held

Opposed: None

Abstain: None

Motion: **At 11:25 a.m., to enter a M.G.L. c.112, §65C Session**

Motion Made By: Ms. Lois Sobel

Second: Dr. Keith Batchelder

Roll-Call Vote: **In Favor:** Dr. Stephen DuLong; Dr. Patricia Wu; Dr. Paul Levy;
Dr. Keith Batchelder; Ms. Lois Sobel; Ms. Jacyn Stultz;
Dr. Ward Cromer; Ms. Kathleen Held

Opposed: None

Abstain: None

Dr. Keith Batchelder left the meeting for the day at 11:51 p.m.

The Board recessed for lunch at 11:51 p.m. and resumed its meeting at 1:30 p.m.

At 1:30 p.m., Dr. DuLong announced that the Board will meet in closed session as authorized pursuant to M.G.L. c. 30A, §21(a)(1) for the purpose of discussing the reputation, character, physical condition or mental health, rather than the professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. Specifically, the Board will meet in Executive Session and will discuss and evaluate the Good Moral Character as required for registration of pending applicant(s) for licensure. Additionally, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients. Executive Session is closed to members of the public, except as provided for in M.G.L. c. 30A, §21(a) (1). At the conclusion of the Executive Session, the Board will return to an open session and then adjourn the meeting for the day.

Motion: **At 1:31 p.m., to enter Executive Session pursuant to
M.G.L. c. 30A, §21(a)(1)**

Motion Made By: Ms. Kathleen Held

Second: Ms. Lois Sobel

Roll-Call Vote: **In Favor:** Dr. Stephen DuLong; Dr. Patricia Wu; Dr. Paul Levy;
Ms. Lois Sobel; Ms. Jacyn Stultz; Dr. Ward Cromer;
Ms. Kathleen Held

Opposed: None

Abstain: None

Board of Registration in Dentistry
General Session Agenda & Minutes
May 3, 2017
(Approved by the Board on June 7, 2017)

Ms. Lois Sobel left the meeting for the day at 2:02 p.m.

Motion: At 3:11 p.m. to adjourn the meeting for the day

Motion Made By: Ms. Kathleen Held

Second: Dr. Paul Levy

Vote: Unanimous

Respectfully submitted,

Ms. Ailish Wilkie, Board Secretary

Date